

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:) Chapter 11
) Case No. 08-35653-KRH
CIRCUIT CITY STORES, INC.,) Jointly Administered
et al.,)
)
Debtors.)
)

RESPONSE TO FIRST OMNIBUS OBJECTION TO CLAIMS RE: CLAIM NO. 14420

GECMC 2005-C2 SOUTH LINDBERGH ("GECMC"), files this Response (the "Response") to the First Omnibus Objection to Claims [ECF No. 10024] (the "Objection") and, in support of the Response respectfully represents as follows:

OLP CCST. LOUIS, LLC (the "Landlord") filed claim no. 14420 (the "Claim"), which claim was subsequently assigned to GECMC [ECF No. 5443]. The Objection seeks to disallow and expunge the Claim as untimely.

GECMC contends that the Claim was timely and, in the alternative, if such claim was untimely, it was due to FedEx's "airplane problems" and was not prejudicial to the Debtors. Accordingly, justice requires that the Objection be overruled and the Claim allowed as timely.

As set forth in the Objection, the Administrative Expense Bar Date applicable to the Claim is June 30, 2009 (the "Bar Date"). As indicated by the attached transmittal letter from counsel to the Landlord and FedEx tracking information, the Claim was sent to the claims agent in these cases on June 29, 2009 via FedEx Priority delivery, which ordinary would have resulted in the Claim being delivered to the claims agent in the morning on June 30, 2009.

FedEx, however, apparently experienced self-described "airplane problems" that resulted in the overnight delivery of the Claim being delayed until July 1, 2009 at 9:10 a.m. Clearly, this

was beyond the control of the Landlord and GECMC, and therefore GECMC should not be penalized for FedEx's failure to deliver the Claim to the claims agent as promised.

Moreover, Landlord's counsel has advised that, as a result of the FedEx issue, Debtors' counsel granted Landlord (and all OLP landlords) a 1-day extension of the Bar Date (until July 1, 2009). Accordingly, notwithstanding the FedEx-related delay, the Claim was timely.

Accordingly, because Landlord was granted an extension of time to file the Claim by Debtors' counsel and because the delay in receipt of the Claim by the claims agent was caused by FedEx and was not prejudicial to the Debtors, the Objection should be overruled and the Claim should be allowed as an administrative claim in the amount of \$22,277.64.

Dated: April 6, 2011.

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-and-

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Counsel for LNR Partners, Inc., as Manager of
GECMC 2005-C2 SOUTH LINDBERGH

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via FedEx overnight on April 6, 2011, upon all parties as set forth on the attached service list.

By: /s/ Mark Sherrill
Mark D. Sherrill

SERVICE LIST

Clerk of the Bankruptcy Court
United States Bankruptcy Court
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